



Legislation Text

File #: 23-544, Version: 1

CITY COUNCIL AGENDA ITEM

Memo Date: September 5, 2023
Agenda Date: September 12, 2023
Prepared By: Charlene Neuterman, Community Services Director
Through: Stockton Whitten, City Manager
Requested Action:

Adopt on **Second and Final Reading** Ordinance 15-2023, a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXI, to change the Zoning Map designation of one parcel totaling 6.61 acres from Brevard County RU-2-10 (Medium-Density Multiple-Family Residential) to City of Cocoa RU-2-15 (Multiple Family Dwelling), with the condition that the maximum density of the property shall be 4 dwelling units per acre.

BACKGROUND:

Mr. James P. McKnight, on behalf of the property owner, Mr. Ralph McCoig of Edita Realty, Inc., is requesting to amend the Zoning Map designation of one parcel totaling 6.61 acres from Brevard County RU-2-10 (Medium-Density Multiple-Family Residential) to City of Cocoa RU-2-15 (Multiple Family Dwelling) as depicted on Exhibit A. The parcel ID number for the subject property is 24-36-30-00-256. The subject property is located east of N. Range Rd., and abuts the cul-de-sac of both Kathi Kim St., and Delys St., which are located in unincorporated Brevard County.

The current Future Land Use (FLU) designation of the parcel is Low Density Residential, LDR. This FLU designation allows a maximum density of 7 du/acre. The proposed RU-2-15 zoning district is consistent with the LDR FLU per Figure FLU-1 of the Future Land Use Element of the City of Cocoa Comprehensive Plan. However, it is important to note that the Low-Density Residential future land use designation provides for a 7 unit per acre maximum density, which will supersede the 15 units per acre typically allowed in the RU-2-15 zoning district. Just prior to the Planning and Zoning Board hearing, the Applicant agreed to voluntarily limit the maximum density of the property further to 4 du/acre.

The reason for the requested change is two-fold. First, the subject property was annexed into the City of Cocoa in 2007 (Ordinance No. 03-2007) and was not given a City of Cocoa zoning category. A FLU of LDR was applied, but not a zoning category. In order for any type of development activity to occur on the subject property, a zoning category is required. The requested RU-2-15 zoning district is similar in nature to the previously applied Brevard County zoning category of RU-2-10, Medium-Density Multiple-Family Residential. The second reason for the request is that the applicant proposes to subdivide the property into four lots to develop four total duplex buildings, for a total of 8 residential units, across the 6.61 acres at a density of 1.21 du/acre. Of note is that +/- 4.09 acres of the subject property are forested wetlands. As such, the remaining +/-2.52 acres would be developed at a density of 3.17 du/acre.

The provisions of the RU-2-15 Residential district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote and protect medium density residential development, maintaining an adequate amount of open space for such development. The applicant has submitted a concept plan (Exhibit B) showing the proposed four lot subdivision, with access from both Kathi Kim St., and Delys St. Lots 1 and 2 would access from Kathi Kim St., and Lots 3 and 4 would access from Delys St. Both streets are existing public rights-of-way in unincorporated Brevard County. Those streets are the only legal public access to the subject property. The portion of the subject property that is wetland will not be disturbed. Please note the concept plan is for illustrative purposes only and is non-binding. Demonstration of full compliance with the Code of Ordinances will be required at the time of site plan and subdivision plan review.

Future Land Use Designation: Current: Low Density Residential

Zoning District: Current: Brevard County RU-2-10 (Medium-Density Multiple-Family Residential)
Proposed: City of Cocoa RU-2-15 (Multiple Family Residential)

Existing Land Use: Vacant Residential Land

Council District: District 3 - Councilmember Dyal

Legal Ad Date: September 1, 2023

Overview of Surrounding Area:

	Future Land Use Designations	Zoning Districts	Land Uses
North	LDR, Low Density Residential	No Zoning Applied	Vacant Residential Land
South	Brevard County RES 15 (15 Units Per Acre)	Brevard County GU, General Use/Brevard County RU-2-10, Medium-Density Multiple-Family Residential	Saturn Elementary School/Grazing Land
East	LDR, Low Density Residential	RU-1-7, Single-Family Residential District	Vacant Residential Land
West	Brevard County RES 15 (15 Units Per Acre)	Brevard County RU-2-10, Medium-Density Multiple-Family Residential	Single-Family Residences/Duplexes

I. Rezoning Analysis

The Planning & Zoning Division staff have reviewed the criteria contained in Appendix A of the City of Cocoa, Article XXI, Section 1(G) as follows, and as provided by the applicant:

a. The proposed change is contrary to the established land use pattern.

Staff Finding: The surrounding FLU is City of Cocoa LDR and Brevard County RES 15. The surrounding zoning is RU-2-15 and unassigned to the north and Brevard County RU-2-10 to the west, and RU-1-7 to the east. The subject property is immediately surrounded by vacant land, except for the single-family and duplex homes located on both Kathi Kim St. and Delys St. (Brevard County RU-2-10). The Brevard County RU-2-10 zoning district allows for multi-family dwellings, duplexes, resort dwellings, and single-family attached dwellings. The proposed zoning district, which would allow for duplex units and multi-family units is not contrary to the established land use pattern, particularly where the Applicant has voluntarily agreed to a condition of 4 dwelling units per acre maximum on the site. As previously stated, the subject property had a Brevard County zoning category of RU-2-10. The requested City of Cocoa zoning district is similar in nature. In addition, the existing LDR FLU allows less density per acre than the existing parcels to the west that are located in unincorporated Brevard County.

b. The proposed change would create an isolated district unrelated to adjacent and nearby districts.

Staff Finding: As noted above, the surrounding zoning districts are Brevard County RU-2-10, RU-1-7 and RU-2-15. The development pattern would be consistent with the developed lots immediately adjacent to the west of the subject property on Kathi-Kim Street and Delys Street, which are zoned for medium-density, multiple-family development.

c. The proposed change would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, access, etc.

Staff Finding: Per the US Census, between 2017 and 2020, US households held approximately 2.60 persons per house. As such, this development is expected to generate approximately 8 units and 21 people, though the concept plan is not a binding development plan at this time. The applicant is anticipated only to develop the 2.52 acres that are not wetlands, at a density of 3.17 units per acre. However, in accordance with the proposed condition, a maximum of 26 units would be possible if the entire property was to be developed. If no wetland impacts were proposed, it would result in a maximum of 10 units. A thorough concurrency review will occur during the subdivision and site plan review processes, but it is not expected to diminish the level of service for public facilities such as schools, utilities, and streets.

d. Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

Staff Finding: The property was annexed in 2007, and was not given a zoning category, just a FLU designation. The requested zoning district is consistent with the FLU designation of LDR.

e. The proposed change would be contrary to the Future Land Use Map and would have an

adverse effect on the Comprehensive Plan.

Staff Finding: The existing FLUM designation of the subject property is LDR. The proposed rezoning is consistent with Future Land Use Element Policy 1.1.2.3. Further, Figure FLU-1, Standards for Future Land Use Categories, showed that RU-2-15 is an applicable zoning district for the LDR FLU category.

f. Changed or changing conditions make the passage of the proposed amendment necessary.

Staff Finding: The subject property is required to have a City of Cocoa zoning category in order for any type of activity to occur. The requested zoning district is similar in nature to the previously applied Brevard County RU-2-10.

g. The proposed change will adversely influence living conditions in the neighborhood.

Staff Finding: The maximum density allowed by the condition will be 4 dwelling units per acre, which is less than the surrounding neighborhood zoning allows. The subject property may be developed in a similar manner as the properties on Kathi Kim St., and Delys St. Both Kathi Kim St., and Delys St. are public right-of-way's giving and provide the legal access to the subject property. The properties to the north, west, and south are vacant.

h. The proposed change will create or excessively increase traffic congestion or otherwise affect public safety.

Staff Finding: It is not anticipated that the proposed rezoning would create or excessively increase traffic congestion or otherwise affect public safety. As agreed on by the applicant, the maximum density of the project will be 4 dwelling units per acre across the 2.52 acres outside of the wetlands. Staff analyzed four different scenarios:

1. 8 Dwelling Units (proposed concept)
2. 47 dwelling units (max allowed by FLU across entire 6.61 acres)
3. 27 dwelling units (4 du*6.61 acres, rounded up)
4. 11 dwelling units (4 du*2.25 acres, rounded up)

Based on the proposed concept, the traffic generation is 54 average daily trips, and 5 PM peak hour trips. The other results are shown in the table below:

Based on these impacts, a full traffic analysis may not be required per code at subdivision. However, that will be more fully analyzed at that time.

Per the Space Coast Transportation Planning Organization (TPO) Transportation data Management System, 2-way data collected on N. Range Rd. adjacent to Oak Haven Ln., showed 5,970 average annual daily trips in 2022 on N. Range Rd. The adopted LOS for N. Range Rd., is 'E', and is identified as a Urban Major Collector. As of the most recent AADT count, there are roughly 10,000 AADT's available on the roadway within it's adopted LOS (Space Coast TRP 'Segments Functional Classification, Maximum Acceptable Volume - MAV - and Levels of Service - LOS, 2020). As previously stated, Kathi Kim St. and Delys St. are both public right-of-way's which provide legal

access to the subject property. If the concept plan were to be developed as proposed, two buildings (four units) would access from Kathi Kim St., and two buildings (four units) would access from Delys St.

As previously mentioned, the proposed concept plan is not binding with a full engineering review being required at a later date as part of the processes of developing the subject property.

i. The proposed change will create a drainage problem.

Staff Finding: The applicant will be required to provide full engineering design as part of the subdivision and site plan review process. In addition, the wetlands on the property are not planned to be impacted during or after the development.

j. The proposed change will seriously reduce light and air to adjacent areas.

Staff Finding: Any new construction is required to meet the requirements of the City Code to ensure light and air to adjacent areas are not reduced. It is not anticipated that this project will bring such negative impact.

k. The proposed change will adversely affect property values in the adjacent areas.

Staff Finding: It is not anticipated that property values would be affected by the proposed rezoning. Uses that are similar in nature generally have a positive value impact upon each other.

l. The proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

Staff Finding: It is not anticipated that the proposed rezoning would be a deterrent to the improvement or development of adjacent property.

m. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

Staff Finding: The proposed change will not constitute a grant of special privilege to the property owner of the subject property as contrasted with the public welfare. The applicant does not have a zoning district applied to the subject property and is required to have one.

n. There are substantial reasons why the property cannot be used in accord with existing zoning.

Staff Finding: The subject property currently does not have a City zoning district. The proposed district is similar in nature to the Brevard County zoning district it previously had and is similar to the developed property adjacent to it.

o. Whether the change suggested is out of scale with the needs of the neighborhood of the city.

Staff Finding: The proposed rezoning is not out of scale with the needs of the area and would complement the existing residential scale in the immediate area.

p. It is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.

Staff Finding: It is not impossible to find other adequate sites in the city for the proposed use, however the subject property needs a City designation, and the property owner has the right to develop their property in accordance with all relevant codes.

Consistency with Comprehensive Plan Policies and Objectives

The proposed RU-2-15 zoning designation is consistent with the allowable uses under the “Medium Density Residential” Future Land Use per the City of Cocoa Comprehensive Plan.

Concurrency Management/Adequate Public Facilities

Section 15-22 of the City Code provides for a concurrency management system to ensure public facilities and services needed to support development are available concurrent with the impacts of such development and that development orders and development permits are not issued in a manner that will not result in a reduction in the levels of service below the adopted level of service standards adopted by the City for public facilities and services, as contained in the City’s adopted Comprehensive Plan.

Consistent with the requirements of Article IV (Concurrency Management System), Chapter 15 of the Code of the City of Cocoa, the applicant/developer will be required to submit a final application for concurrency review prior to issuance of any City of Cocoa permits. If capacity issues relating to any public facilities or services regulated by the City of Cocoa adopted Comprehensive Plan is identified, necessary and appropriate mitigation will be required to be addressed prior to construction. However, because the maximum density remains unchanged, no further impact to public facilities is anticipated by the rezoning.

At the August 16th Planning and Zoning Meeting, Board members voted to recommend approval by City Council. At the August 22nd Council meeting, Council approved the First Reading of Ordinance 15-2023.

Staff recommend consideration of the Second and Final Reading of Ordinance 15-2023.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

Planning & Zoning Board recommended approval - August 16, 2023
City Council approved 1st reading on August 22nd, 2023

RECOMMENDED MOTION:

Adopt on **Second and Final Reading** Ordinance 15-2023, a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXI, to change the Zoning Map designation of one parcel totaling 6.61 acres from Brevard County RU-2-10 (Medium-Density Multiple-Family Residential) to City of Cocoa RU-2-15 (Multiple Family Dwelling), with the condition that the maximum density of the property shall be 4 dwelling units per acre.